

2001 SESSION

LEGISLATION NOT PREPARED BY DLS INTRODUCED

019832652

HOUSE BILL NO. 2868

Offered January 19, 2001

A BILL to amend and reenact §§ 45.1-361.11, 45.1-361.12, 45.1-361.29, and 45.1-361.36 of the Code of Virginia, relating to the Virginia Gas and Oil Act; distance limits and permit applications.

Patron—Bryant

Referred to Committee on Mining and Mineral Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 45.1-361.11, 45.1-361.12, 45.1-361.29 and 45.1-361.36 of the Code of Virginia is amended and reenacted as follows:

§ 45.1-361.11. Objections by coal owner; *coal operator's right to require alternate well location.*

A. In deciding on objections by a coal owner to a proposed permit modification or drilling unit modification, only the following questions shall be considered:

1. Whether the work can be done safely with respect to persons engaged in coal mining at or near the well site; and

2. Whether the well work is an unreasonable or arbitrary exercise of the well operator's right to explore for, market and produce oil and gas.

B. In deciding on objections by a coal owner to the establishment of a drilling unit, a permit for a new well, or the stimulation of a coalbed methane gas well, the following safety aspects shall first be considered, and no order or permit shall be issued where the evidence indicates that the proposed activities will be unsafe:

1. Whether the drilling unit or drilling location is above or in close proximity to any mine opening or shaft, entry, travelway, airway, haulageway, drainageway or passageway, or to any proposed extension thereof, in any operated or abandoned or operating coal mine, or in any coal mine already surveyed and platted but not yet being operated;

2. Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration the surface topography;

3. Whether the proposed well can be drilled safely or the proposed coalbed methane gas well can be stimulated safely, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal; and

4. The extent to which the proposed drilling unit or drilling location or stimulation of the coalbed methane gas well unreasonably interferes with the safe recovery of coal, oil and gas.

C. The following questions with respect to the drilling unit or drilling location of a new well or stimulation of a new coalbed methane gas well shall also be considered:

1. The extent to which the proposed drilling unit or drilling location or coalbed methane gas well stimulation will unreasonably interfere with present or future coal mining operations;

2. The feasibility of moving the proposed drilling unit or drilling location to a mined-out area, below the coal outcrop or to some other area;

3. The feasibility of a drilling moratorium for not more than two years in order to permit the completion of coal mining operations;

4. The method proposed for the recovery of coal and gas;

5. The practicality of locating the unit or the well on a uniform pattern with other units or wells;

6. The surface topography and use; and

7. Whether the decision will substantially affect the right of the gas operator to explore for and produce the gas.

The factors in subsection C of this section are not intended to and shall not be construed to authorize the Director, or the Board under § 45.1-361.36, to supersede, impair, abridge or affect any contractual rights or obligations now or hereafter existing between the respective owners of coal and gas or any interest therein.

D.1. In addition to the objections permitted by this section and the provisions of § 45.1-361.12, a coal operator may require a well operator to move the location of a proposed coalbed methane well to a reasonable alternate location not greater than 800 feet from the originally proposed location; provided, however, that any such alternate location must be on the same leasehold and within the same drilling unit as the originally proposed location.

2. After an alternate location has been chosen under subsection D 1 of this section, should any other coal operator with standing as set out in § 45.1-361.30 object to the alternate location, the well

INTRODUCED

HB2868

59 operator shall not be required to again move the well location unless required to do so after a hearing
60 pursuant to § 45.1-361.35.

61 § 45.1-361.12. Distance limitations of certain wells.

62 A. If the well operator and the objecting coal owners present or represented at the hearing to
63 consider the objections to the proposed drilling unit or location are unable to agree upon a drilling unit
64 or location for a new well within 2,500 linear feet of the location of an existing well or a well for
65 which a permit application is on file, then the permit or drilling unit shall be refused, *unless the*
66 *department determines, after consideration of the factors enumerated in subsections B and C of*
67 *§ 45.1-361.11, that the drilling unit or location will not unreasonably interfere with the safe recovery of*
68 *coal, oil, gas, or coalbed methane gas as proposed. The department may modify the drilling unit or*
69 *location, after consideration of the factors enumerated in subsection B and C of § 45.1-361.11, to permit*
70 *the safe recovery of coal, oil, gas, and coalbed methane gas.*

71 B. The minimum distance limitations established by this section shall not apply if the proposed well
72 will be drilled through an existing or planned pillar of coal required for protection of a preexisting well
73 drilled to any depth, and the proposed well will neither require enlargement of the pillar nor otherwise
74 have an adverse effect on existing or planned coal mining operations.

75 § 45.1-361.29. Permit required; gas, oil, or geophysical operations; coalbed methane gas wells;
76 environmental assessment.

77 A. No person shall commence any ground disturbing activity for a well, gathering pipeline,
78 geophysical exploration or associated activity, facilities or structures without first having obtained from
79 the Director a permit to conduct such activity. Every permit application or permit modification
80 application filed with the Director shall be verified by the permit applicant and shall contain all data,
81 maps, plats, plans and other information as required by regulation or the Director.

82 B. For permits issued on July 1, 1996, or thereafter, new permits issued by the Director shall be
83 issued only for the following activities: geophysical operations, drilling, casing, equipping, stimulating,
84 producing, reworking initially productive zones and plugging a well, or gathering pipeline construction
85 and operation. Applications for new permits to conduct geophysical operations shall be accompanied by
86 an application fee of \$100. Applications for all other new permits shall be accompanied by an
87 application fee of \$200.

88 C. For permits issued prior to July 1, 1996, prior to commencing any reworking, deepening or
89 plugging of the well, or other activity not previously approved on the permitted site, a permittee shall
90 first obtain a permit modification from the Director. All applications for permit modifications shall be
91 accompanied by a permit modification fee of \$100. For permits issued on July 1, 1996, or thereafter,
92 prior to commencing any new zone completions a permittee shall first obtain a permit modification from
93 the Director.

94 D. All permits and operations provided for under this section shall conform to the rules, regulations
95 and orders of the Director and the Board. When permit terms or conditions required or provided for
96 under Article 3 (§ 45.1-361.27 et seq.) of this chapter are in conflict with any provision of a
97 conservation order issued pursuant to the provisions of Article 2 (§ 45.1-361.13 et seq.) of this chapter,
98 the terms of the permit shall control. In this event, the operator shall return to the Board for
99 reconsideration of a conservation order in light of the conflicting permit. Every permittee shall be
100 responsible for all operations, activity or disturbances associated with the permitted site.

101 E. No permit or permit modification shall be issued by the Director until he has received from the
102 applicant a written certification that (i) all notice requirements of this article have been complied with,
103 together with proof thereof, and (ii) the applicant has the right to conduct the operations as set forth in
104 the application and operations plan.

105 F. A permit shall be required to drill any coalbed methane gas well or to convert any methane
106 drainage borehole into a coalbed methane gas well. In addition to the other requirements of this section,
107 every permit application for a coalbed methane gas well shall include:

108 1. The method that the coalbed methane gas well operator will use to stimulate the well.

109 2. a. A signed consent from the coal operator of each coal seam which is located within 750
110 horizontal feet of the proposed well location (i) which the applicant proposes to stimulate or (ii) which
111 is within 100 vertical feet above or below a coal bearing stratum which the applicant proposes to
112 stimulate.

113 b. The consent required by this section may be (i) contained in a lease or other such agreement; (ii)
114 contained in an instrument of title; or (iii) in any case where a coal operator cannot be located or
115 identified and the operator has complied with § 45.1-361.19, provided by a pooling order entered
116 pursuant to § 45.1-361.21 or § 45.1-361.22 and provided such order contains a finding that the operator
117 has exercised due diligence in attempting to identify and locate the coal operator. The consent required
118 by this section shall be deemed to be granted for any tract where title to the coal is held by multiple
119 owners if the applicant has obtained consent to stimulate from the co-tenants holding majority interest in
120 the tract and none of the coal co-tenants has leased the tract for coal development. *The consent required*

by this section shall be deemed to be granted if the applicant has obtained the consent to stimulate from any coal owner or owners holding at least fifty percent (50%) interest in the acreage for each coal seam for which consent is required. The requirement of signed consent contained in this section shall in no way be considered to impair, abridge or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease entered into prior to January 1, 1990, between the applicant and any coal operator, and any extensions or renewals thereto, and the existence of such lease or contractual arrangement and any extensions or renewals thereto shall constitute a waiver of the requirement for the applicant to file an additional signed consent.

3. The unit map, if any, approved by the Board.

G. No permit required by this chapter for activities to be conducted within an area of Tidewater Virginia where drilling is authorized under subsection B of § 62.1-195.1 shall be granted until the environmental impact assessment required by § 62.1-195.1 has been conducted and the assessment has been reviewed by the Department.

H. The operator of any coalbed methane well drilled within 250 feet of a cemetery shall comply with a written request of any person owning an interest in a private cemetery or the authorized agent of a public cemetery that the operator of such well suspend operations for a period from two hours before to two hours after any burial service that takes place on the surface area of such cemetery. However, if the well operator or a mine operator determines that suspension of such operations will have an adverse effect on the safety of the well operations or mining operations, the operator shall be under no obligation to comply with the request, and operation of the well shall continue.

§ 45.1-361.36. Appeals of Director's decisions to the Board.

A. ~~Any~~ The applicant and any person with standing under the provisions of § 45.1-361.30 who is, if aggrieved by a decision of the Director may appeal to the Board, subject to the limitations imposed by subsection B of this section, by petition to the Board filed within ten days following the appealed decision.

B. No petition for appeal may raise any matter other than matters raised by the Director or which the petitioner put in issue either by application or by objections, proposals or claims made and specified in writing at the informal fact-finding hearing held under § 45.1-361.35 leading to the appealed decision.